

Exhibit 2 –
Proposed Answer of Ormat Nevada
Inc.

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Ormat Nevada Inc.*

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEVADA**

THE FALLON PAIUTE-SHOSHONE
TRIBE and the CENTER FOR
BIOLOGICAL DIVERSITY,

Plaintiffs,

v.

U.S. DEPARTMENT OF THE INTERIOR,
BUREAU OF LAND MANAGEMENT, and
JAKE VIALPANDO in his official capacity
as Field Manager of the Bureau of Land
Management Stillwater Field Office,

Defendants,

and

ORMAT NEVADA INC.,

Defendant-Intervenor-Applicant.

Case No. 3:21-cv-00512-LRH-WGC

**ORMAT NEVADA INC.'S [PROPOSED]
ANSWER TO PLAINTIFFS'
COMPLAINT**

1 Pursuant to Rule 8 of the Federal Rules of Civil Procedure, intervenor-defendant Ormat
2 Nevada Inc. (“Ormat”) hereby states the following for its Answer to Plaintiffs’ complaint for
3 declaratory and injunctive relief (the “Complaint”), identified as ECF No. 1.

4 Any factual allegation admitted in Ormat’s Answer is admitted only as to the specific
5 fact asserted and not as to any conclusions, characterizations, or inferences drawn therefrom by
6 Plaintiffs. The denial of any factual allegation may not be construed as an admission of the
7 negative of such allegation. Ormat denies each and every assertion in the Complaint, except as
8 specifically admitted, qualified, or otherwise responded to herein. Ormat follows the format of
9 the Complaint for ease of reference only and denies any assertion contained in any heading or
10 other formatting of Plaintiffs’ Complaint or inference drawn therefrom.

11 INTRODUCTION

12 1. Paragraph 1 consists of a summary of the claims and assertions of Plaintiffs’
13 Complaint, which are responded to below and to which no separate response is required. To the
14 extent that a response is deemed necessary, Ormat denies every allegation not specifically
15 admitted below.

16 2. Ormat admits that the Dixie Meadows Geothermal Utilization Project
17 (“Project”) proposes to build up to two geothermal power plants, up to 18 geothermal wells,
18 access roads, and a transmission line on public lands in north-central Nevada. The Project
19 Environmental Assessment (“EA”) and Decision Record (“Decision”) best describe the
20 proposed Project and land uses, and no further response is required. Ormat admits that Bureau
21 of Land Management (“BLM”) approval is necessary to exercise its valid geothermal lease
22 rights on the federal property.

23 3. Ormat denies the allegations in the first sentence of Paragraph 3. The remaining
24 sentences in Paragraph 3 describe Plaintiff Fallon Paiute-Shoshone Tribe’s (the “Tribe’s”) relationship to and use of the Dixie Meadows Hot Springs and surrounding landscape. Ormat
25 has insufficient information to form a belief as to the truth of the remaining allegations, and,
26 therefore, denies the same.
27
28

5. Ormat denies the allegations in Paragraph 5.

7. The second sentence of Paragraph 7 describes the Tribe's relationship to and use of the Dixie Meadows Hot Springs. Ormat has insufficient information to form a belief as to the truth of the allegations in the second sentence of Paragraph 7 and, therefore, denies the same. Ormat denies the remaining allegations in Paragraph 7.

8. The allegations in Paragraph 8 characterize Plaintiffs' legal conclusions to which no response is required, and to the extent a response is required, Ormat denies the allegations.

9. The allegations in Paragraph 9 characterize Plaintiffs' legal conclusions and requests for relief to which no response is required, and to the extent a response is required, Ormat denies the allegations and denies that Plaintiffs are entitled to any relief.

10. The allegations of Paragraph 10 characterize Plaintiffs' legal conclusions to which no response is required, and to the extent a response is required, Ormat denies the allegations.

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12. The allegations of Paragraph 12 characterize Plaintiffs' legal conclusions to which no response is required, and to the extent a response is required, Ormat denies the allegations.

13. The first sentence of Paragraph 13 purports to characterize statements made in a Federal Register notice, which speak for themselves and are the best evidence of their contents. Any allegations contrary to the plain language of the Federal Register notice are denied. Ormat has insufficient information to form a belief as to the truth of the remaining allegations of Paragraph 13 and, therefore, denies the same.

14. Ormat has insufficient information to form a belief as to the truth of the allegations of Paragraph 14 and, therefore, denies the same.

15. Ormat has insufficient information to form a belief as to the truth of the allegations of Paragraph 15 and, therefore, denies the same.

16. Ormat has insufficient information to form a belief as to the truth of the allegations of Paragraph 16 and, therefore, denies the same.

17. Ormat has insufficient information to form a belief as to the truth of the allegations in the first, third, and fourth sentences of Paragraph 17 and, therefore, denies the same. Ormat denies the allegations in the second sentence of Paragraph 17.

18. The allegations of Paragraph 18 characterize Plaintiffs' legal conclusions to which no response is required, and to the extent a response is required, Ormat denies the allegations.

19. The allegations of Paragraph 19 characterize Plaintiffs' legal conclusions to which no response is required, and to the extent a response is required, Ormat denies the allegations.

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20. The allegations of Paragraph 20 characterize Plaintiffs' legal conclusions to which no response is required, and to the extent a response is required, Ormat denies the allegations.

21. The allegations of Paragraph 21 characterize Plaintiffs' legal conclusions to which no response is required, and to the extent a response is required, Ormat denies the allegations.

22. Ormat has insufficient information to form a belief as to the truth of the allegations of Paragraph 22 and, therefore, denies the same.

23. The allegations of Paragraph 23 characterize Plaintiffs' legal conclusions to which no response is required, and to the extent a response is required, Ormat denies the allegations.

24. Ormat has insufficient information to form a belief as to the truth of the allegations of Paragraph 24 and, therefore, denies the same.

25. Ormat has insufficient information to form a belief as to the truth of the allegations of Paragraph 25 and, therefore, denies the same.

26. Ormat has insufficient information to form a belief as to the truth of the allegations of Paragraph 26 and, therefore, denies the same.

27. The allegations of Paragraph 27 characterize Plaintiffs' legal conclusions to which no response is required, and to the extent a response is required, Ormat denies the allegations.

28. The allegations of Paragraph 28 characterize Plaintiffs' legal conclusions to which no response is required, and to the extent a response is required, Ormat denies the allegations.

29. Admitted.

30. Admitted.

31. Admitted.

LEGAL BACKGROUND

A. The National Environmental Policy Act

1 32. Paragraph 32 purports to characterize provisions of the National Environmental
2 Policy Act's ("NEPA's") implementing regulations and unidentified case law interpreting
3 NEPA's requirements, which speak for themselves and are the best evidence of their contents.
4 Any allegations contrary to the plain meaning of NEPA's regulations or the applicable case law
5 are denied.

6 33. Admitted.

7 34. Paragraph 34 purports to characterize provisions of NEPA and its implementing
8 regulations, which speak for themselves and are the best evidence of their contents. Any
9 allegations contrary to the plain meaning of NEPA or the applicable regulations are denied.

10 35. Paragraph 35 purports to characterize provisions of NEPA's implementing
11 regulations, which speak for themselves and are the best evidence of their contents. Any
12 allegations contrary to the plain meaning of the applicable regulations are denied.

13 36. Paragraph 36 purports to characterize provisions of NEPA's implementing
14 regulations, which speak for themselves and are the best evidence of their contents. Any
15 allegations contrary to the plain meaning of the applicable regulations are denied.

16 37. Paragraph 37 appears to purport to characterize NEPA's requirements as set out
17 in unidentified case law, which speak for themselves and are the best evidence of their contents.
18 Any allegations contrary to the plain meaning of NEPA, NEPA's regulations, or the applicable
19 case law are denied.

20 38. Paragraph 38 appears to purport to characterize NEPA's requirements as set out
21 in unidentified case law, which speak for themselves and are the best evidence of their contents.
22 Any allegations contrary to the plain meaning of NEPA, NEPA's regulations, or the applicable
23 case law are denied.

24 39. Paragraph 39 appears to purport to characterize NEPA's requirements as set out
25 in unidentified case law, which speak for themselves and are the best evidence of their contents.
26 Any allegations contrary to the plain meaning of NEPA, NEPA's regulations, or the applicable
27 case law are denied.

1 40. Paragraph 40 purports to characterize NEPA's requirements, but in fact
2 constitutes legal argument without any citation to authority. Any allegations contrary to the
3 plain meaning of NEPA, NEPA's regulations, or the applicable case law are denied.

4 41. Paragraph 41 purports to characterize NEPA's requirements, but in fact
5 constitutes legal argument without any citation to authority. Any allegations contrary to the
6 plain meaning of NEPA, NEPA's regulations, or the applicable case law are denied.

7 42. Paragraph 42 purports to characterize provisions of NEPA, its implementing
8 regulations, and unidentified case law interpreting NEPA's requirements, all of which speak for
9 themselves and are the best evidence of their contents. Any allegations contrary to the plain
10 meaning of NEPA, NEPA's regulations, or the applicable case law are denied.

11 43. Paragraph 43 purports to characterize provisions of NEPA's implementing
12 regulations and unidentified case law interpreting NEPA's requirements, which speak for
13 themselves and are the best evidence of their contents. Any allegations contrary to the plain
14 meaning of NEPA, NEPA's regulations, or the applicable case law are denied.

15 **B. The Federal Land Policy and Management Act**

16 44. Paragraph 44 purports to characterize provisions of the Federal Land Policy and
17 Management Act ("FLPMA"), which speak for themselves and are the best evidence of their
18 contents. Any allegations contrary to the plain meaning of FLPMA are denied.

19 45. Paragraph 45 purports to characterize provisions of the FLPMA and BLM's
20 implementing regulations, which speak for themselves and are the best evidence of their
21 contents. Any allegations contrary to the plain meaning of FLPMA or the BLM regulations are
22 denied.

23 46. Paragraph 46 purports to characterize provisions of the BLM's Carson City
24 Resource Management Plan ("Carson City RMP"), which speak for themselves and are the best
25 evidence of their contents. Any allegations contrary to the plain meaning of the Carson City
26 RMP are denied.

1 47. Paragraph 47 purports to characterize provisions of the Carson City RMP, which
2 speak for themselves and are the best evidence of their contents. Any allegations contrary to the
3 plain meaning of the Carson City RMP are denied.

4 48. Paragraph 48 purports to characterize provisions of the Carson City RMP, which
5 speak for themselves and are the best evidence of their contents. Any allegations contrary to the
6 plain meaning of the Carson City RMP are denied.

7 49. Paragraph 49 purports to characterize provisions of the Carson City RMP, which
8 speak for themselves and are the best evidence of their contents. Any allegations contrary to the
9 plain meaning of the Carson City RMP are denied.

10 50. Paragraph 50 purports to characterize provisions of the Carson City RMP, which
11 speak for themselves and are the best evidence of their contents. Any allegations contrary to the
12 plain meaning of the Carson City RMP are denied.

13 51. Paragraph 51 purports to characterize provisions of the Carson City RMP, which
14 speak for themselves and are the best evidence of their contents. Any allegations contrary to the
15 plain meaning of the Carson City RMP are denied.

16 **C. The Religious Freedom Restoration Act and the American Indian Religious**
17 **Freedom Act**

18 52. Paragraph 52 purports to characterize provisions of the Religious Freedom
19 Restoration Act (“RFRA”), which speak for themselves and are the best evidence of their
20 contents. Any allegations contrary to the plain meaning of the RFRA are denied.

21 53. Paragraph 53 purports to characterize provisions of the American Indian
22 Religious Freedom Act (“AIRFRA”), which speak for themselves and are the best evidence of
23 their contents. Any allegations contrary to the plain meaning of the AIRFA are denied.

24 **D. Relevant Policies Concerning Indigenous Sacred Sites**

25 54. Paragraph 54 purports to characterize provisions of Executive Order 13007,
26 which speak for themselves and are the best evidence of their contents. Any allegations
27 contrary to the plain meaning of Executive Order 13007 are denied.
28

1 55. Paragraph 55 purports to characterize provisions of Executive Order 13007,
2 which speak for themselves and are the best evidence of their contents. Any allegations
3 contrary to the plain meaning of Executive Order 13007 are denied.

4 56. Paragraph 56 purports to characterize provisions of Joint Secretarial Order 3403,
5 which speak for themselves and are the best evidence of their contents. Any allegations
6 contrary to the plain meaning of Joint Secretarial Order 3403 are denied.

7 57. Paragraph 57 purports to characterize provisions of Joint Secretarial Order 3403,
8 which speak for themselves and are the best evidence of their contents. Any allegations
9 contrary to the plain meaning of Joint Secretarial Order 3403 are denied.

10 58. Paragraph 58 purports to characterize provisions of Joint Secretarial Order 3403,
11 which speak for themselves and are the best evidence of their contents. Any allegations
12 contrary to the plain meaning of Joint Secretarial Order 3403 are denied.

13 **E. November 9, 2021 Inter-Agency Memorandum of Understanding Regarding**
14 **Protection of Indigenous Sacred Sites.**

15 59. Paragraph 59 purports to characterize provisions of a November 9, 2021 Inter-
16 Agency Memorandum of Understanding, which speak for themselves and are the best evidence
17 of their contents. Any allegations contrary to the plain meaning of the November 9, 2021 Inter-
18 Agency Memorandum of Understanding are denied.

19 60. Paragraph 60 purports to characterize provisions of a November 9, 2021 Inter-
20 Agency Memorandum of Understanding, which speak for themselves and are the best evidence
21 of their contents. Any allegations contrary to the plain meaning of the November 9, 2021 Inter-
22 Agency Memorandum of Understanding are denied.

23 61. Paragraph 61 purports to characterize provisions of a November 9, 2021 Inter-
24 Agency Memorandum of Understanding, which speak for themselves and are the best evidence
25 of their contents. Any allegations contrary to the plain meaning of the November 9, 2021 Inter-
26 Agency Memorandum of Understanding are denied.

27 62. Paragraph 62 purports to characterize provisions of a November 9, 2021 Inter-
28 Agency Memorandum of Understanding, which speak for themselves and are the best evidence

1 of their contents. Any allegations contrary to the plain meaning of the November 9, 2021 Inter-
2 Agency Memorandum of Understanding are denied.

3 63. Paragraph 63 purports to characterize provisions of a November 9, 2021 Inter-
4 Agency Memorandum of Understanding, which speak for themselves and are the best evidence
5 of their contents. Any allegations contrary to the plain meaning of the November 9, 2021 Inter-
6 Agency Memorandum of Understanding are denied.

7 **F. The United States' Trust Duties to the Tribe**

8 64. Paragraph 64 purports to characterize principles as set out in unidentified case
9 law, which speak for themselves and are the best evidence of their contents. Any allegations
10 contrary to the plain meaning of the applicable case law are denied.

11 65. Paragraph 65 purports to characterize principles as set out in unidentified case
12 law, which speak for themselves and are the best evidence of their contents. Any allegations
13 contrary to the plain meaning of the applicable case law are denied.

14 **G. The Administrative Procedure Act**

15 66. Paragraph 66 purports to characterize provisions of the Administrative Procedure
16 Act ("APA"), which speak for themselves and are the best evidence of their contents. Any
17 allegations contrary to the plain meaning of the APA are denied.

18 67. Paragraph 67 purports to characterize provisions of the APA, which speak for
19 themselves and are the best evidence of their contents. Any allegations contrary to the plain
20 meaning of the APA are denied.

21 68. Paragraph 68 purports to characterize principles set out in unidentified case law
22 interpreting the APA, which speak for themselves and are the best evidence of their contents.
23 Any allegations contrary to the plain meaning of the case law are denied.

24 **FACTUAL BACKGROUND**

25 **A. Dixie Meadows and Dixie Hot Springs**

26 69. The allegations in Paragraph 69 purport to characterize the springs in the Dixie
27 Valley. A description of the Dixie Meadows springs is set out in BLM's EA and supporting
28

1 documents, which are the best evidence of their contents. Any allegations contrary to BLM's
2 EA and supporting documents are denied.

3 70. The allegations in Paragraph 70 purport to characterize the springs in the Dixie
4 Valley. A description of the Dixie Meadows springs is set out in BLM's EA and supporting
5 documents, which are the best evidence of their contents. Any allegations contrary to BLM's
6 EA and supporting documents are denied.

7 71. The allegations in Paragraph 71 purport to characterize the springs in the Dixie
8 Valley. A description of the Dixie Meadows springs is set out in BLM's EA and supporting
9 documents, which are the best evidence of their contents. Any allegations contrary to BLM's
10 EA and supporting documents are denied.

11 72. Ormat has insufficient information to form a belief as to the truth of the
12 allegations of Paragraph 72 and, therefore, denies the same. Although, Ormat admits that BLM
13 has determined that the Dixie Valley Hot Springs is eligible for the National Register of
14 Historic Places, as set out in the EA.

15 73. The allegations in Paragraph 73 purport to characterize a passage in a book or
16 pamphlet allegedly printed by the FWS, which is the best evidence of its content. Any
17 allegations contrary to the plain meaning of the applicable text are denied.

18 74. Ormat has insufficient information to form a belief as to the truth of the
19 allegations of Paragraph 74 and, therefore, denies the same.

20 75. Ormat has insufficient information to form a belief as to the truth of the
21 allegations of Paragraph 75 regarding the significance of the site for Tribal members and,
22 therefore, denies the same. Ormat denies the remaining allegations in Paragraph 75.

23 76. Ormat has insufficient information to form a belief as to the truth of the
24 allegations of Paragraph 76 regarding the significance of the site for Tribal members and,
25 therefore, denies the same. The remaining allegations in Paragraph 76 purport to characterize
26 species information available in BLM's EA and supporting documents, which are the best
27 evidence of their contents. Any allegations contrary to BLM's EA or supporting documents are
28 denied.

B. The Dixie Valley Toad

77. The allegations in Paragraph 77 purport to characterize species information available in BLM's EA and supporting documents, which are the best evidence of their contents. Any allegations contrary to BLM's EA or supporting documents are denied.

78. The allegations in the first and second sentences of Paragraph 78 purport to characterize species information available in BLM's EA and supporting documents, which are the best evidence of their contents. Any allegations contrary to BLM's EA or supporting documents are denied. Ormat has insufficient information to form a belief as to the truth of the allegations in the third sentence of Paragraph 78 and, therefore, denies the same.

79. The allegations in Paragraph 79 purport to characterize species information available in BLM's EA and supporting documents, which are the best evidence of their contents. Any allegations contrary to BLM's EA or supporting documents are denied.

80. The allegations in Paragraph 80 purport to characterize unidentified discussions among state and federal agencies, a Nevada Department of Wildlife ("NDOW") petition, and BLM actions, all of which speak for themselves and/or are the best evidence of their contents. Any allegations contrary to the applicable discussions, NDOW petition, or BLM actions are denied.

81. The allegations in the first sentence of Paragraph 81 purport to characterize species information available in BLM's EA and supporting documents, which are the best evidence of their contents. Any allegations contrary to BLM's EA and supporting documents are denied. Ormat denies the remaining allegations in Paragraph 81.

C. The Dixie Meadows Geothermal Utilization Project

82. Ormat admits that the Project proposed to build up to two geothermal power plants, up to 18 geothermal wells, access roads, a transmission line, and some associated facilities on public lands in north-central Nevada. The Project EA and Decision best describe the proposed Project and land uses, and no further response is required. To the extent that further response is required, any allegations contrary to the BLM's EA or Decision are denied. Ormat

1 admits that BLM approval is necessary to exercise its valid geothermal lease rights on the federal
2 property.

3 83. The allegations in Paragraph 83 purport to characterize Project information
4 available in BLM's EA and supporting documents, which are the best evidence of their contents.
5 Any allegations contrary to BLM's EA or supporting documents are denied.

6 84. The allegations in Paragraph 84 purport to characterize Project information
7 available in BLM's EA and supporting documents, which are the best evidence of their contents.
8 Any allegations contrary to BLM's EA or supporting documents are denied. Ormat affirmatively
9 states that Table 4 of the EA sets out the total area that will be disturbed the Project, including
10 1,934 acres of temporary disturbance. Reclamation will occur on 1,823 acres, leaving a total of
11 111 acres of total disturbance.

12 85. The allegations in Paragraph 85 purport to characterize Project information
13 available in BLM's EA and supporting documents, which are the best evidence of their contents.
14 Any allegations contrary to BLM's EA or supporting documents are denied. Ormat denies the
15 characterization of the noise and light impacts in the final sentence of Paragraph 85.

16 86. Admitted.

17 **D. The Center's September 18, 2017 Listing Petition and Positive 90-Day Finding**

18 87. Paragraph 87 purports to characterize Plaintiff the Center for Biological
19 Diversity's ("CBD's") petition to the FWS to list the Dixie Valley Toad, which petition speaks
20 for itself and is the best evidence of its contents. Any allegations contrary to the content of the
21 petition are denied.

22 88. Paragraph 88 purports to characterize CBD's petition to the FWS to list the Dixie
23 Valley Toad, CBD comment letters, and an unidentified document cited therein, which petition,
24 comment letter, and applicable document speak for themselves and are the best evidence of their
25 contents. Any allegations contrary to the contents of the petition, comment letters, and
26 applicable document are denied. Moreover, Ormat denies Plaintiffs' characterization of the
27 impacts of other unidentified geothermal projects throughout Paragraph 88 to the extent the
28 paragraph may reference prior Ormat projects.

1 89. Paragraph 89 purports to characterize the contents of a technical memorandum
2 CBD submitted to the BLM, which speaks for itself and is the best evidence of its contents.
3 Ormat denies the substantive allegations in the technical memorandum.

4 90. Paragraph 90 purports to characterize CBD's petition to list the Dixie Valley
5 Toad, along with BLM statements and actions, all of which petition speak for themselves and are
6 the best evidence of their contents. Any allegations contrary to the content of the petition or
7 BLM's statements and actions are denied. Ormat denies Plaintiffs' characterization of the
8 impacts of other Ormat geothermal projects in both the petition and Paragraph 90.

9 91. Paragraph 91 purports to characterize CBD's petition to list the Dixie Valley
10 Toad, which petition speaks for itself and is the best evidence of its contents. Any allegations
11 contrary to the content of the petition are denied. Ormat denies the substantive allegations in
12 the petition.

13 92. Paragraph 92 purports to characterize CBD's petition to list the Dixie Valley
14 Toad, which petition speaks for itself and is the best evidence of its contents. Any allegations
15 contrary to the content of the petition are denied.

16 93. Paragraph 93 purports to characterize a June 26, 2018 FWS finding, which
17 speaks for itself and is the best evidence of its contents. Any allegations contrary to the content
18 of the FWS finding are denied.

19 94. To the extent the allegations in Paragraph 94 purport to characterize the nature of
20 a case before the U.S. District Court for the District of Columbia, the relevant case law speaks
21 for itself and is the best evidence of its contents. Any allegations contrary to the applicable case
22 law are denied. The remaining allegations of Paragraph 94 characterize Plaintiffs' legal
23 conclusions to which no response is required, and to the extent a response is required, Ormat
24 denies the allegations.

25 **E. The BLM's May 9, 2017 Draft EA**

26 95. Ormat admits that the BLM issued a Draft EA for the Project in May 2017. The
27 remaining allegations in Paragraph 95 purport to characterize the 2017 Draft EA, which speaks
28

1 for itself and is the best evidence of its contents. Any allegations contrary to the content of the
2 EA are denied.

3 96. Paragraph 96 purports to characterize the 2017 Draft EA, which speaks for itself
4 and is the best evidence of its contents. Any allegations contrary to the content of the EA are
5 denied.

6 97. Paragraph 97 purports to characterize the 2017 Draft EA, which speaks for itself
7 and is the best evidence of its contents. Any allegations contrary to the content of the EA are
8 denied.

9 98. Paragraph 98 purports to characterize the 2017 Draft EA and BLM actions, which
10 speak for themselves and/or are the best evidence of their contents. Any allegations contrary to
11 the content of the EA or inconsistent with BLM's actions are denied.

12 99. The allegations of Paragraph 99 characterize Plaintiffs' legal conclusions to which
13 no response is required, and to the extent a response is required, Ormat denies the allegations.

14 100. Paragraph 100 purports to characterize the 2017 Draft EA, which speaks for
15 itself and is the best evidence of its contents. Any allegations contrary to the content of the EA
16 are denied. Plaintiffs' characterizations of the 2017 Draft EA also amount to legal conclusions
17 to which no response is required, and to the extent a response is required, Ormat denies the
18 allegations.

19 101. Paragraph 101 purports to characterize the 2017 Draft EA, which speaks for
20 itself and is the best evidence of its contents. Any allegations contrary to the content of the EA
21 are denied.

22 102. Paragraph 102 purports to characterize the contents of Plaintiffs' comment letters
23 and a supporting document regarding the 2017 Draft EA, which speak for themselves and are the
24 best evidence of their contents. Any allegations contrary to the contents of the applicable
25 comment letters and supporting document are denied. Ormat further denies the substantive
26 allegations and legal conclusions in Plaintiffs' comment letters and the applicable supporting
27 document.
28

103. Paragraph 103 purports to characterize the contents of an EA prepared for a separate project and CBD's comment letter on the 2017 Draft EA, both of which speak for themselves and are the best evidence of their contents. Any allegations contrary to the contents of the applicable EA or comment letters are denied. Ormat further denies the substantive allegations and legal conclusions in Plaintiffs' comment letters.

104. Paragraph 104 purports to characterize the contents of the Tribe's comment letter on the 2017 Draft EA, which speaks for itself and is the best evidence of its contents. Any allegations contrary to the contents of the applicable comment letter are denied. Ormat further denies the substantive allegations and legal conclusions in the Tribe's comment letter regarding the impacts of the Project.

105. Paragraph 105 purports to characterize the contents of a supporting technical memorandum attached to the Tribe's comment letter on the 2017 Draft EA, which speaks for itself and is the best evidence of its contents. Any allegations contrary to the contents of the applicable memorandum are denied. Ormat further denies the substantive allegations and legal conclusions in the technical memorandum.

106. Paragraph 106 purports to characterize the contents of the CBD's comment letter on the 2017 Draft EA, which speaks for itself and is the best evidence of its contents. Any allegations contrary to the contents of the applicable comment letter are denied. Ormat further denies the substantive allegations and legal conclusions in CBD's comment letters.

107. Paragraph 107 purports to characterize the contents of FWS and NDOW comment letters on the 2017 Draft EA, which speak for themselves and are the best evidence of their contents. Any allegations contrary to the content of the letters are denied.

F. The BLM's Revised Draft EA and Aquatic Resources Monitoring and Mitigation Plan

108. Ormat admits that the BLM issued a Revised Draft EA in January 2021. The remaining allegations of Paragraph 108 purport to characterize the 2021 Revised Draft EA, which speaks for itself and is the best evidence of its contents. Any allegations contrary to the content of the EA are denied.

1 109. The allegations in the first sentence of Paragraph 109 characterize Plaintiffs’
2 legal conclusions to which no response is required, and to the extent a response is required,
3 Ormat denies the allegations. The second sentence of Paragraph 109 purports to characterize
4 the contents of a FWS comment letter on the 2021 Revised Draft EA, which speaks for itself
5 and is the best evidence of its contents. Any allegations contrary to the contents of the
6 applicable comment letter are denied. Ormat affirmatively denies that the ARMPP is not a fully
7 developed mitigation protocol. The last two sentences of Paragraph 109 purport to characterize
8 the 2021 Revised Draft EA, which speaks for itself and is the best evidence of its contents. Any
9 allegations contrary to the content of the 2021 Revised Draft EA are denied. Ormat
10 affirmatively states that it has engaged in baseline data collection for over two years in the
11 Project area.

12 110. The allegations in Paragraph 110 purport to characterize the January 2021 Draft
13 Aquatic Resources Monitoring and Mitigation Plan (“January 2021 ARMMP”), which speaks
14 for itself and is the best evidence of its contents. Any allegations contrary to the content of the
15 January 2021 ARMMP are denied. The allegations in the first sentence of Paragraph 110 also
16 characterize Plaintiffs’ legal conclusions to which no response is required, and to the extent a
17 response is required, Ormat denies the allegations. Ormat denies the allegations in the final
18 sentence of Paragraph 110.

19 111. The allegations in Paragraph 111 purport to characterize the January 2021
20 ARMMP, which speaks for itself and is the best evidence of its contents. Any allegations
21 contrary to the content of the January 2021 ARMMP are denied.

22 112. The allegations in Paragraph 112 purport to characterize the January 2021
23 ARMMP, which speaks for itself and is the best evidence of its contents. Any allegations
24 contrary to the content of the January 2021 ARMMP are denied.

25 113. The allegations in Paragraph 113 purport to characterize the January 2021
26 ARMMP, which speaks for itself and is the best evidence of its contents. Any allegations
27 contrary to the content of the January 2021 ARMMP are denied. Ormat denies the allegations
28 in the final sentence of Paragraph 113.

1 114. The allegations in Paragraph 114 purport to characterize the January 2021
2 ARMMP, which speaks for itself and is the best evidence of its contents. Any allegations
3 contrary to the content of the January 2021 ARMMP are denied. Ormat denies the
4 characterization of the timeframes for mitigations that Plaintiffs state, allegedly from the
5 January 2021 ARMMP. Ormat also denies the allegations in the third sentence of Paragraph
6 114.

7 115. The allegations in the first three sentences of Paragraph 115 purport to
8 characterize the January 2021 ARMMP, which speaks for itself and is the best evidence of its
9 contents. Any allegations contrary to the content of the January 2021 ARMMP are denied.
10 Ormat denies the remaining allegations in Paragraph 115.

11 116. The allegations in Paragraph 116 purport to characterize the January 2021
12 ARMMP, which speaks for itself and is the best evidence of its contents. Any allegations
13 contrary to the content of the January 2021 ARMMP are denied. The final sentence purports to
14 characterize comments from Plaintiffs, FWS, NDOW, and the Navy on the 2021 Draft EA,
15 which speak for themselves and are the best evidence of their contents. Any allegations contrary
16 to the contents of the applicable comment letters are denied.

17 117. The allegations in the first sentence of Paragraph 117 characterize Plaintiffs'
18 legal conclusions to which no response is required, and to the extent a response is required,
19 Ormat denies the allegations. The remaining allegations of Paragraph 117 purport to
20 characterize the January 2021 ARMMP, which speaks for itself and is the best evidence of its
21 contents. Any allegations contrary to the content of the January 2021 ARMMP are denied.

22 118. The allegations in Paragraph 118 characterize Plaintiffs' legal conclusions to
23 which no response is required, and to the extent a response is required, Ormat denies the
24 allegations.

25 119. The allegations in the first sentence of Paragraph 119 characterize Plaintiffs'
26 legal conclusions to which no response is required, and to the extent a response is required,
27 Ormat denies the allegations. The remaining allegations of Paragraph 119 purport to
28 characterize the 2021 Draft EA and January 2021 ARMMP, which speak for themselves and are

1 the best evidence of their contents. Any allegations contrary to the content of the 2021 Draft
2 EA or January 2021 ARMMP are denied.

3 120. The allegations in the first two sentences of Paragraph 120 purport to
4 characterize the January 2021 ARMMP and 2021 Draft EA, which speak for themselves and are
5 the best evidence of their contents. Any allegations contrary to the content of the January 2021
6 ARMMP are denied. The remaining portions of Paragraph 120 are legal conclusions to which
7 no response is required, and to the extent a response is required, Ormat denies the allegations.

8 121. The allegations in the first sentence of Paragraph 121 purport to characterize the
9 2021 Draft EA, which speaks for itself and is the best evidence of its contents. Any allegations
10 contrary to the content of the 2021 Draft EA are denied. The remaining allegations of
11 Paragraph 121 are legal conclusions to which no response is required, and to the extent a
12 response is required, Ormat denies the allegations.

13 122. The allegations in Paragraph 122 purport to characterize the contents of
14 Plaintiffs' comment letters and supporting documents regarding the 2021 Draft EA and January
15 2021 ARMMP, which speak for themselves and are the best evidence of their contents. Any
16 allegations contrary to the contents of the comment letters and supporting documents are
17 denied. Ormat further denies the substantive allegations and legal conclusions in Plaintiffs'
18 comment letters and supporting documents.

19 123. The allegations in Paragraph 123 purport to characterize the contents of the
20 Tribe's comment letter regarding the 2021 Draft EA, which speaks for itself and is the best
21 evidence of its contents. Any allegations contrary to the contents of the applicable comment
22 letter are denied. Ormat further denies the substantive allegations and legal conclusions in the
23 Tribe's comment letters.

24 124. The allegations in Paragraph 124 purport to characterize the contents of the
25 Tribe's comment letter regarding the 2021 Draft EA, which speaks for itself and is the best
26 evidence of its contents. Any allegations contrary to the contents of the applicable comment
27 letter are denied. Ormat further denies the substantive allegations and legal conclusions in the
28 Tribe's comment letter.

1 125. The allegations in Paragraph 125 purport to characterize the contents of comment
2 letters from “interested parties” regarding the 2021 Draft EA, which speak for themselves and
3 are the best evidence of their contents. Any allegations contrary to the contents of the applicable
4 comment letters are denied.

5 126. The allegations in Paragraph 126 purport to characterize the contents of CBD’s
6 and FWS’s comment letters and supporting documents regarding the 2021 Draft EA, which
7 speak for themselves and are the best evidence of their contents. Any allegations contrary to the
8 contents of the applicable comment letters or supporting documents are denied. Ormat further
9 denies the substantive allegations and legal conclusions in CBD’s comment letter and supporting
10 documents. The final sentence of Paragraph 126 characterizes Plaintiffs’ legal conclusions to
11 which no response is required, and to the extent a response is required, Ormat denies the
12 allegations.

13 127. The allegations in Paragraph 127 purport to characterize the contents of a FWS
14 comment matrix regarding the 2021 Draft EA, which speaks for itself and is the best evidence of
15 its contents. Any allegations contrary to the contents of the applicable comment matrix are
16 denied. Ormat further denies the substantive allegations and legal conclusions Plaintiffs attribute
17 to the FWS comment matrix.

18 128. The allegations in Paragraph 128 purport to characterize the contents of several
19 comment letters regarding the 2021 Draft EA, which speak for themselves and are the best
20 evidence of their contents. Any allegations contrary to the contents of the applicable comment
21 letters are denied. Ormat further denies the substantive allegations and legal conclusions
22 Plaintiffs attribute to the comment letters.

23 129. The allegations in Paragraph 129 purport to characterize comments by Dr. Myers
24 on the 2021 Draft EA, which speak for themselves and are the best evidence of their contents.
25 Any allegations contrary to the contents of the applicable comments are denied. Ormat further
26 denies the substantive allegations and legal conclusions Plaintiffs attribute to the comments.

27 130. The allegations in Paragraph 130 purport to characterize comments by the FWS
28 on the 2021 Draft EA, which speak for themselves and are the best evidence of their contents.

1 Any allegations contrary to the contents of the applicable comment letter are denied. Ormat
2 further denies the substantive allegations and legal conclusions Plaintiffs attribute to the
3 comments.

4 131. The allegations in Paragraph 131 purport to characterize comments from NDOW
5 on the 2021 Draft EA, which speak for themselves and are the best evidence of their contents.
6 Any allegations contrary to the contents of the applicable comment letter are denied. Ormat
7 further denies the substantive allegations and legal conclusions Plaintiffs attribute to the
8 comments. Ormat further denies the allegations in the fourth sentence of Paragraph 131.

9 132. The allegations in Paragraph 132 purport to characterize comments from the
10 Navy on the 2021 Draft EA, which speak for themselves and are the best evidence of their
11 contents. Any allegations contrary to the contents of the applicable comment letter are denied.
12 Ormat denies the substantive allegations and legal conclusions Plaintiffs attribute to the
13 comments.

14 133. Paragraph 133 purports to characterize the 2021 Revised Draft EA and the 2017
15 Draft EA, both of which speak for themselves and are the best evidence of their contents. Any
16 allegations contrary to the contents of either EA are denied.

17 134. The allegations in the first and second sentences of Paragraph 134 characterize
18 Plaintiffs' legal conclusions to which no response is required, and to the extent a response is
19 required, Ormat denies the allegations. The remaining allegations in Paragraph 134 purport to
20 characterize the 2021 Draft EA, comments from the FWS on the 2021 Draft EA, and Churchill
21 County actions, all of which speak for themselves and/or are the best evidence of their contents.
22 Any allegations contrary to the contents of the 2021 Draft EA or the applicable comment letter
23 or inconsistent with Churchill County's actions are denied. Ormat further denies the substantive
24 allegations and legal conclusions Plaintiffs' attribute to the FWS comment.

25 135. The allegations in Paragraph 135 characterize Plaintiffs' legal conclusions to
26 which no response is required, and to the extent a response is required, Ormat denies the
27 allegations. The remaining allegations in Paragraph 135 characterize Plaintiffs' requests to the
28 BLM, which speak for themselves or are the best evidence of their contents.

136. Ormat admits that BLM provided a 30-day public comment on the 2021 Revised Draft EA. Ormat denies the allegations in the final sentence of Paragraph 136 as NEPA regulations allow interested parties to comment at any time, regardless of a formal public comment period.

G. The National Historic Preservation Act “Section 106” Memorandum of Agreement (“MOA”)

137. Admitted.

138. The allegations in Paragraph 138 purport to characterize the Section 106 MOA, which speaks for itself and is the best evidence of its contents. Any allegations contrary to the content of the MOA are denied.

139. The allegations in the first and third sentences of Paragraph 139 purport to characterize the Section 106 MOA, which speaks for itself and is the best evidence of its contents. Any allegations contrary to the content of the Section 106 MOA are denied. Ormat has insufficient information to form a belief as to the truth of the allegations in the second sentence of Paragraph 139 and, therefore, denies the same. The final sentence in Paragraph 139 purports to characterize a September 15, 2021 letter from the Tribe to BLM, which speaks for itself and is the best evidence of its contents. Any allegations contrary to the content of the applicable letter are denied. Ormat further denies the substantive allegations and legal conclusions Plaintiffs attribute to the letter.

H. The BLM’s November 23, 2021 Final EA, Finding of No Significant Impact, and Decision Record

140. Ormat has insufficient information to form a belief as to the truth of the allegations in Paragraph 140 and, therefore, denies the same.

141. Ormat admits that the EA, Finding of No Significant Impact (“FONSI”), and Decision Record were finalized on November 23, 2021. Ormat has insufficient information to form a believe as to the remaining allegations in Paragraph 141 and, therefore, denies the same.

142. The allegations in the first and second sentences of Paragraph 142 purport to characterize the Final EA and the 2021 Draft EA, both of which speak for themselves and are the

1 best evidence of their contents. Any allegations contrary to the content of the Final EA or the
2 2021 Draft EA are denied. The allegations in the third sentence characterize Plaintiffs' legal
3 conclusions to which no response is required, and to the extent a response is required, Ormat
4 denies the allegations.

5 143. The allegations in the first sentence of Paragraph 143 purport to characterize the
6 Final EA, which speaks for itself and is the best evidence of its contents. Any allegations
7 contrary to the content of the Final EA are denied. The allegations in the second sentence
8 characterize Plaintiffs' legal conclusions to which no response is required, and to the extent a
9 response is required, Ormat denies the allegations.

10 144. The allegations in the first sentence of Paragraph 144 purport to characterize the
11 Final EA and 2021 Draft EA, which speak for themselves and are the best evidence of their
12 contents. Any allegations contrary to the content of the Final EA or 2021 Draft EA are denied.
13 The allegations in the second sentence characterize Plaintiffs' legal conclusions to which no
14 response is required, and to the extent a response is required, Ormat denies the allegations.

15 145. The allegations in the second sentence of Paragraph 145 purport to characterize
16 the Final EA, which speaks for itself and is the best evidence of its contents. Any allegations
17 contrary to the contents of the Final EA are denied. The remaining allegations in Paragraph 145
18 characterize Plaintiffs' legal conclusions to which no response is required, and to the extent a
19 response is required, Ormat denies the allegations.

20 146. The allegations in Paragraph 146 purport to characterize the final Aquatic
21 Resources Monitoring and Mitigation Plan ("ARMMP"), the January 2021 ARMMP, and
22 comments on the ARMMP, which speak for themselves and are the best evidence of their
23 contents. Any allegations contrary to the content of the ARMMP or the applicable comments
24 are denied. Ormat further denies the substantive allegations and legal conclusions Plaintiffs
25 attribute to the comments.

26 147. The allegations in Paragraph 147 purport to characterize the Final EA, ARMMP,
27 and January 2021 ARMMP, which speak for themselves and are the best evidence of their
28

1 contents. Any allegations contrary to the content of the Final EA, ARMMP, or January 2021
2 ARMMP are denied.

3 148. The allegations in Paragraph 148 purport to characterize the ARMMP and
4 January 2021 ARMMP, which speak for themselves and are the best evidence of their contents.
5 Any allegations contrary to the content of the ARMMP and January 2021 ARMMP are denied.
6 Ormat denies the substantive allegations and legal conclusions Plaintiffs attribute to the
7 ARMMP and January 2021 ARMMP.

8 149. The allegations in the first two sentences of Paragraph 149 purport to
9 characterize the ARMMP and January 2021 ARMMP, which speak for themselves and are the
10 best evidence of their contents. Any allegations contrary to the plain meaning of the ARMMP
11 and January 2021 ARMMP are denied. The remaining allegations of Paragraph 149 are legal
12 argument and conclusions to which no response is required, and to the extent a response is
13 required, Ormat denies the allegations.

14 150. The allegations in the first three sentences of Paragraph 150 purport to
15 characterize the ARMMP and January 2021 ARMMP, which speak for themselves and are the
16 best evidence of their contents. Any allegations contrary to the plain meaning of the ARMMP
17 and January 2021 ARMMP are denied. The remaining portions of Paragraph 150 are legal
18 argument and conclusions to which no response is required, and to the extent a response is
19 required, Ormat denies the allegations.

20 151. The allegations in the first sentence of Paragraph 151 purport to characterize the
21 ARMMP and January 2021 ARMMP, which speak for themselves and are the best evidence of
22 their contents. Any allegations contrary to the plain meaning of the ARMMP and January 2021
23 ARMMP are denied. The remaining portions of Paragraph 151 are denied.

24 152. The allegations in the first, second, and final sentences of Paragraph 152 purport
25 to characterize the ARMMP, which speaks for itself and is the best evidence of its contents.
26 Any allegations contrary to the plain meaning of the ARMMP are denied. The remaining
27 allegations of Paragraph 152 are legal argument and conclusions to which no response is
28 required, and to the extent a response is required, Ormat denies the allegations.

1 153. Regarding the allegations in the first sentence of Paragraph 153, the terms
2 “novel” and “unverified” are ambiguous and Ormat therefore denies the allegations. The
3 remaining allegations in Paragraph 153 purport to characterize the ARMMP, the January 2021
4 ARMMP, and the administrative record, which requires no response as the ARMMP, January
5 2021 ARMMP, and the administrative record speak for themselves and are the best evidence of
6 their contents. Any allegations contrary to the plain meaning of the ARMMP, January 2021
7 ARMMP, or the administrative record are denied.

8 154. The allegations in Paragraph 154 purport to characterize the ARMMP and the
9 January 2021 ARMMP, which speak for themselves and are the best evidence of their contents.
10 Any allegations contrary to the plain meaning of the ARMMP and January 2021 ARMMP are
11 denied.

12 155. The allegations in the first two sentences of Paragraph 155 purport to
13 characterize the FONSI, which speaks for itself and is the best evidence of its contents. Any
14 allegations contrary to the plain meaning of the FONSI are denied. Ormat denies the allegations
15 in the third sentence of Paragraph 155.

16 156. The allegations in the first three sentences of Paragraph 156 purport to
17 characterize the FONSI, which speaks for itself and is the best evidence of its contents. Any
18 allegations contrary to the plain meaning of the ARMMP are denied. The remaining portions of
19 Paragraph 156 are legal argument and conclusions to which no response is required, and to the
20 extent a response is required, Ormat denies the allegations.

21 157. The allegations in the first sentence of Paragraph 157 purport to characterize the
22 FONSI and Decision Record, which speak for themselves and are the best evidence of their
23 contents. Any allegations contrary to the plain meaning of the FONSI or Decision Record are
24 denied. Ormat has insufficient information to form a belief as to the truth of the allegations in
25 the second sentence, and therefore denies the same.

26 158. Admitted.
27
28

1 159. The allegations in Paragraph 159 purport to characterize the Decision Record,
2 which speaks for itself and is the best evidence of its contents. Any allegations contrary to the
3 plain meaning of the Decision Record are denied.

4 160. The allegations in the first two sentences of Paragraph 160 purport to
5 characterize the Decision Record, which speaks for itself and is the best evidence of its contents.
6 Any allegations contrary to the plain meaning of the Decision Record are denied. The
7 remaining portions of Paragraph 160 are legal argument and conclusions to which no response
8 is required, and to the extent a response is required, Ormat denies the allegations.

9 161. The allegations in Paragraph 161 purport to characterize the Decision Record and
10 FONSI, which speak for themselves and are the best evidence of their contents. Any allegations
11 contrary to the plain meaning of the Decision Record or FONSI are denied.

12 **FIRST CLAIM FOR RELIEF (NEPA and APA Violation)**

13 162. Ormat resubmits its answers to Paragraphs 1–161 of Plaintiffs’ Complaint.

14 163. Paragraph 163 purports to characterize provisions of NEPA’s implementing
15 regulations and unidentified case law interpreting NEPA’s requirements, which speak for
16 themselves and are the best evidence of their contents. Any allegations contrary to the plain
17 meaning of NEPA’s regulations or the applicable case law are denied.

18 164. The allegations of Paragraph 164 characterize Plaintiffs’ legal conclusions to
19 which no response is required, and to the extent a response is required, Ormat denies the
20 allegations.

21 165. Paragraph 165 purports to characterize provisions of NEPA, NEPA’s
22 implementing regulations, and unidentified case law interpreting NEPA’s requirements, which
23 speak for themselves and are the best evidence of their contents. Any allegations contrary to the
24 plain meaning of NEPA, NEPA’s implementing regulations, or the applicable case law are
25 denied.

26 166. The allegations of Paragraph 166 characterize Plaintiffs’ legal conclusions to
27 which no response is required, and to the extent a response is required, Ormat denies the
28 allegations.

1 167. Paragraph 167 purports to characterize provisions of NEPA's implementing
2 regulations, which speak for themselves and are the best evidence of their contents. Any
3 allegations contrary to the plain meaning of NEPA's regulations are denied.

4 168. The allegations of Paragraph 168 characterize Plaintiffs' legal conclusions to
5 which no response is required, and to the extent a response is required, Ormat denies the
6 allegations.

7 169. Paragraph 169 purports to characterize provisions of NEPA and NEPA's
8 implementing regulations, which speak for themselves and are the best evidence of their
9 contents. Any allegations contrary to the plain meaning of NEPA or NEPA's regulations are
10 denied.

11 170. The allegations of Paragraph 170 characterize Plaintiffs' legal conclusions to
12 which no response is required, and to the extent a response is required, Ormat denies the
13 allegations.

14 171. Paragraph 171 purports to characterize provisions of NEPA and NEPA's
15 implementing regulations, which speak for themselves and are the best evidence of their
16 contents. Any allegations contrary to the plain meaning of NEPA or NEPA's regulations are
17 denied.

18 172. The allegations of Paragraph 172 characterize Plaintiffs' legal conclusions to
19 which no response is required, and to the extent a response is required, Ormat denies the
20 allegations.

21 173. The allegations of Paragraph 173 characterize Plaintiffs' legal conclusions to
22 which no response is required, and to the extent a response is required, Ormat denies the
23 allegations.

24 **SECOND CLAIM FOR RELIEF (FLPMA and APA Violation)**

25 174. Ormat resubmits its answers to Paragraphs 1–173 of Plaintiffs' Complaint.

26 175. Paragraph 175 purports to characterize provisions of the FLPMA and BLM's
27 implementing regulations, which speak for themselves and are the best evidence of their
28

1 contents. Any allegations contrary to the plain meaning of FLPMA or the BLM regulations are
2 denied.

3 176. Paragraph 176 purports to characterize provisions of the Carson City RMP,
4 which speak for themselves and are the best evidence of their contents. Any allegations
5 contrary to the plain meaning of the Carson City RMP are denied.

6 177. The allegations of Paragraph 177 characterize Plaintiffs' legal conclusions to
7 which no response is required, and to the extent a response is required, Ormat denies the
8 allegations.

9 178. The allegations of Paragraph 178 characterize Plaintiffs' legal conclusions to
10 which no response is required, and to the extent a response is required, Ormat denies the
11 allegations.

12 **THIRD CLAIM FOR RELIEF (AIRFA Policy and APA Violation)**

13 179. Ormat resubmits its answers to Paragraphs 1–178 of Plaintiffs' Complaint.

14 180. Ormat admits that BLM has determined that the Dixie Valley Hot Springs is
15 eligible for the National Register of Historic Places, as set out in the EA, which speaks for itself
16 and is the best evidence of its contents. Any allegations contrary to the plain meaning of the EA
17 are denied.

18 181. The allegations in the first clause of the sentence in Paragraph 181 characterize
19 Plaintiffs' legal conclusions to which no response is required, and to the extent a response is
20 required, Ormat denies the allegations. The remaining allegations of the sentence in Paragraph
21 181 purport to characterize provisions of AIRFA, which speak for themselves and are the best
22 evidence of their contents. Any allegations contrary to the plain meaning of AIRFA are denied.

23 182. The allegations in the first clause of the sentence in Paragraph 182 characterize
24 Plaintiffs' legal conclusions to which no response is required, and to the extent a response is
25 required, Ormat denies the allegations. The remaining allegations of the sentence in Paragraph
26 182 purport to characterize provisions of AIRFA, which speak for themselves and are the best
27 evidence of their contents. Any allegations contrary to the plain meaning of AIRFA are denied.
28

1 183. The allegations in the first clause of the sentence in Paragraph 183 characterize
2 Plaintiffs' legal conclusions to which no response is required, and to the extent a response is
3 required, Ormat denies the allegations. The remaining allegations in the sentence in Paragraph
4 183 purport to characterize provisions of Secretarial Order 3404, which speak for themselves
5 and are the best evidence of their contents. Any allegations contrary to the plain meaning of the
6 Order are denied.

7 184. The allegations in the first clause of the sentence in Paragraph 184 characterize
8 Plaintiffs' legal conclusions to which no response is required, and to the extent a response is
9 required, Ormat denies the allegations. The remaining allegations in the sentence in Paragraph
10 184 purport to characterize provisions of a November 9, 2021 Inter-Agency MOU, which speak
11 for themselves and are the best evidence of their contents. Any allegations contrary to the plain
12 meaning of the MOU are denied.

13 185. The allegations of Paragraph 185 characterize Plaintiffs' legal conclusions to
14 which no response is required, and to the extent a response is required, Ormat denies the
15 allegations.

16 186. The allegations of Paragraph 186 characterize Plaintiffs' legal conclusions to
17 which no response is required, and to the extent a response is required, Ormat denies the
18 allegations.

19 **FOURTH CLAIM FOR RELIEF (RFRA Violation)**

20 187. Ormat resubmits its answers to Paragraphs 1–186 of Plaintiffs' Complaint.

21 188. Ormat has insufficient information to form a belief as to the truth of the
22 allegations in Paragraph 188, and, therefore, denies the same.

23 189. The allegations of Paragraph 189 characterize Plaintiffs' legal conclusions to
24 which no response is required, and to the extent a response is required, Ormat denies the
25 allegations.

26 190. The allegations of Paragraph 190 characterize Plaintiffs' legal conclusions to
27 which no response is required, and to the extent a response is required, Ormat denies the
28 allegations.

191. The allegations of Paragraph 191 characterize Plaintiffs' legal conclusions to which no response is required, and to the extent a response is required, Ormat denies the allegations.

192. The allegations of Paragraph 192 characterize Plaintiffs' legal conclusions to which no response is required, and to the extent a response is required, Ormat denies the allegations.

193. The allegations of Paragraph 193 characterize Plaintiffs' legal conclusions to which no response is required, and to the extent a response is required, Ormat denies the allegations.

FIFTH CLAIM FOR RELIEF (Tribal Trust Responsibilities)

194. Ormat resubmits its answers to Paragraphs 1–193 of Plaintiffs' Complaint.

195. The allegations of Paragraph 195 characterize Plaintiffs' legal conclusions to which no response is required, and to the extent a response is required, Ormat denies the allegations.

196. The allegations of Paragraph 196 characterize Plaintiffs' legal conclusions to which no response is required, and to the extent a response is required, Ormat denies the allegations.

PRAYER FOR RELIEF

The remainder of Plaintiffs' Complaint consists of Plaintiffs' prayer for relief, to which no response is required. Insofar as a response is required, Ormat denies that Plaintiffs are entitled to any relief whatsoever.

GENERAL DENIAL

Ormat hereby denies all allegations, whether express or implied, including any allegations reflected in section headings, in Plaintiffs' Complaint not specifically admitted herein.

AFFIRMATIVE DEFENSES

- A. Plaintiffs fail to state a claim upon which relief may be granted.
- B. Plaintiffs lack standing to assert some or all of their claims.

- 1 C. Some or all of Plaintiffs' claims are barred by statute.
- 2 D. Some or all of Plaintiffs' claims are barred by the ripeness doctrine.
- 3 E. Some or all of Plaintiffs' claims are barred because they failed to exhaust administrative
- 4 remedies.
- 5 F. Ormat incorporates by reference the defenses asserted or to be asserted in forthcoming
- 6 filings by any other defendant to this action.

7 DATED this 20th day of December, 2021.

8

9 By: /s/ Erica Nannini

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[*Pro Hac Vice Pending*]

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Certificate of Service

I hereby certify that on December 20, 2021, I filed the foregoing using the United States District Court CM/ECF, which caused all counsel of record to be served electronically.

/s/ Erica K. Nannini

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